



**STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE  
REAL ESTATE APPRAISER COMMISSION  
500 JAMES ROBERTSON PARKWAY, SUITE 620  
NASHVILLE, TENNESSEE 37243  
615-741-1831**

**May 15, 2007  
Room 640, Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met May 15, 2007, at 9:40 a.m. in Nashville, Tennessee, at the Davy Crockett Tower in Room 640. Chairman Marc Headden called the meeting to order, and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Dr. Richard Evans  
Marc Headden  
William R. Flowers, Jr.  
James E. Wade, Jr.  
John Bullington  
Sam Pipkin

**COMMISSION MEMBERS ABSENT**

Luther Bratton  
Jason West

**STAFF MEMBERS PRESENT**

Nikole Urban, Administrative Director  
Bethany Heuer, Staff Attorney

**ADOPT AGENDA**

The commission voted to adopt the agenda. Mr. Bullington made the motion to accept the agenda and it was seconded by Mr. Wade. Motion carried unopposed.

**MINUTES**

The April 2007 minutes were reviewed. Mr. Flowers made the motion to accept the minutes as written. It was seconded by Mr. Bullington. Motion carried unopposed.

## APPLICANT CONFERENCES

**James Nicholas Matlock** made application for registered trainee and checked yes to a character question and was required, therefore, to appear before the Commission. Mr. Matlock was charged with DUI in 2004 which was a first offence and violation of implied consent. He was convicted of reckless driving and violation of implied consent instead. Mr. Matlock was in attendance and stated he has had no other criminal behavior and regrets the past mistake he made. Mr. Bullington made the motion to grant approval of the application at this time. This motion was seconded by Mr. Wade. The motion carried unopposed.

**Annie Mae Peels** made a request of the Commission to consider pre-approval for a future trainee application regarding discipline she received from the Real Estate Commission. She was unable to attend this meeting due to a doctor's appointment. Mr. Pipkin made the motion to defer this matter until she could attend a Commission meeting explain the nature of this prior discipline. Mr. Bullington seconded this motion. The motion carried unopposed.

**April McManus Bay** made application for registered trainee and checked yes to a character question and was required, therefore, to appear before the Commission. Ms. Bay was arrested 7 and 10 years ago for shoplifting. One occasion she was caught shoplifting in the company of her mother and a second time with her now ex-husband. She was in attendance and expressed deep regret for her behavior when she was younger. She stated she is now a wife and mother of three and has severed all contact with her mother and ex-husband. She stated these persons were negative influences in her life. She presented a letter from her proposed supervisor, Michael Frevert, to attest to her current character. Mr. Bullington expressed concern that at 20 years of age and with a parent and husband present that she should know better than to shoplift and he had concerns her past behavior may not have changed. After some discussion, Mr. Wade made the motion to grant approval of the application at this time. This motion was seconded by Dr. Evans. The motion carried with a vote of five "yes", and one "no". Mr. Bullington was the Commission member who cast the "no" vote. Mr. Wade expressed to Ms. Bay the importance not respecting the trust the Commission has placed in her and to uphold the high ethical standards expected of Real Estate Appraisers.

## GENERAL BUSINESS

### Education Committee Report

Dr. Evans made recommendation to approve the Education report as submitted with the addition of two courses and 3 individual course approvals, with the exception of six specific courses for the instructor approval request of Vicki G. Boyd, from TREES, Inc. Dr. Evans expressed concerns that Ms. Boyd's resume and application did not appear to illustrate experience "directly related to" the following courses: *500 Real Estate Appraisal Capitalization; 600 Real Estate Appraisal Applications; HUD/FHA Guidelines; Market Analysis and Highest & Best Use; Environmental Hazards, Environmental Site Assessment*. Mr. Pipkin motioned that the Commission grant approval to all requests on the Education Report as recommended by Dr. Evans, except the six courses Dr. Evans expressed concerns over. Mr. Wade seconded the motion. The motion carried unopposed. After much discussion on the requirements to instruct qualifying and continuing education courses, Mr. Pipkin stated that he had concerns about the range of experience this instructor may or may not have obtained and he recommended that approval not be granted for the afore listed six courses, unless or until Ms. Boyd could submit additional evidence of experience

directly related to those course subjects. Mr. Bullington seconded that motion. The motion carried unopposed. The following are the courses and individual approvals from the education report:

## EDUCATION COMMITTEE REPORT MAY 15, 2007

Course Provider	Course Number	Course Name	Instructors	Credit Hours	Type
Appraisal Academy	1078	On-Line The Income Approach	R. Dennis Tompkins	7	CE
	1079	On-Line Introduction to Commercial Appraisal	R. Dennis Tompkins	7	CE
	1080	On-Line Sales Comparison Approach	R. Dennis Tompkins	7	CE
	1081	On-Line The Cost Approach	R. Dennis Tompkins	7	CE
Appraisal Institute	1082	General Appraiser Report	Maureen Mastroieni	30	QE/CE
ASFMA	1083	Advanced Rural Case Studies	Lee Smith Dennis Hoeger	36	CE
Career Webschool	1089	On-Line Residential Report Writing and Case Studies	A. M. Black	14	CE
Greater Nashville Assoc. Of Realtors	1077	Tax Deferred 1031 Real Property Exchanges	John King	15	CE
National Business Institute	1084	Property Taking Through Eminent Domain in TN	Various	7	CE

### Instructors Only Approval

Name	Course Provider	Course Name	Credit Hours	Type
Andrew Leirer	McKissock, Inc.	7 Hour USPAP Update	7	CE
Andrew Leirer	McKissock, Inc,	Private Appraisal Assignment What to Do-What Not to Do	7	CE
Vicki G. Boyd	Trees	Basic Appraisal Principles	30	Both
		Basic Appraisal Procedures	30	Both
		400-Real Estate Appraisal Methods	30	Both
		Residential Sales Comparison & Income Approach	30	Both
		URAR	16	Both
		2 to 4 Unit Case Studies	16	Both
		Residential Report Writing	15	Both
		Market Analysis & Highest & Best Use	15	Both
		Residential Site Valuation & Cost Approach	15	Both
		HP 12C Calculator Usage	8	CE
		Land/Site Valuation	7	CE
		Scope of Work & Due Diligence	7	CE

Not Approved	Environmental Hazards	8	CE
Not Approved	Environmental Site Assessment	16	CE
Not Approved	500-Real Estate Appraisal Capitalization	30	Both
Not Approved	600-Real Estate Appraisal Applications	30	Both
Not Approved	HUD/FHA Guidelines	14	CE

#### Individual Course Approval

Name	Course Provider	Course Name	Credit Hours	Type
Barrie L. McDonald	U.S. Army Corp of Engineers	Partial Interest Valuation- Divided	7	CE
Marvin A. Maes	Lorman Education Services	Real Estate Development From Beginning to End	7	CE
J. Lee Butler	Lorman Education	Eminent Domain in Tennessee	7	CE
Yancey Holder	Florida State Univ.	Real Estate Appraisal I	32	QE
Yancey Holder	Florida State Univ.	Advanced Appraisal & Market Analysis	32	QE
Jerry Miller	IRWA	The Appraisal of Partial Acquisitions	40	CE
Marc Headden	The Appraisal Foundation	Valuation Fraud Symposium	8	CE

#### Appraisal Subcommittee Letter

Administrative Director, Nikole Urban, presented the Appraisal Subcommittee letter regarding the December 2006 audit. The Subcommittee found that:

- Tennessee does not investigate and resolve complaints in a timely manner as required by ASC Policy Statement 10 E.
- Complaint files lacked adequate documentation regarding the Commission's reasons underlying its final decisions.
- Tennessee does not process temporary practice applications within five business days as required by ASC Policy Statement 5.
- The Commission's regulations do not conform to AQB criteria.

The letter from the Subcommittee stated that the Tennessee Real Estate Appraiser Commission would be placed on a six (6) to nine (9) month audit cycle. Ms. Urban stated she received a follow-up e-mail from them explaining the results were due to the audit encompassing a 3 year period and that they could not consider only the past six months that she had been director. They stated in their e-mail that they understood that the complaint numbers had been reduced greatly in the 6 months prior to their visit and that the complaint processing and organization had improved greatly in recent months. They stated that their next audit would only be from their last visit up to the time of the audit, so it would show the progress the Tennessee Real Estate Appraiser Commission has made towards compliance with ASC Statement guidelines/requirements. Ms. Urban also informed the Commission that the Rule Making Hearing on May 16, 2007 would bring the regulations in compliance with ASC requirements. The temporary practice permit failure in five days was due to the fact that these applications go to either the cashiers or revenue department prior to coming to the Real Estate Appraiser Commission and those delays in the mail system and revenue system

was causing these applications to be processed, at times, in longer than the five days required. The Real Estate Appraiser Commission office processes the applications, once received, within 24 hours. Ms. Urban did not have a solution to offer the Commission or the ASC to this problem at this time. A letter of response will be drafted by staff at the Real Estate Appraiser Commission and given to Chairman, Marc Headden, for review and signature before submission to the ASC.

### **Commission Policy 6**

Ms. Urban and legal counsel, Bethany Heuer, presented Commission Policy 6 for possible repeal because the language was inconsistent with the Real Estate Appraiser Commission procedure for "informal conferences". The Policy read, "The Commission member who initially reviews a complaint will assist the staff attorney in making an initial determination as to the severity of any violation. If the complaint has merit and any noted violation is minor in nature (suspension, downgrade, or revocation may not be contemplated), an informal conference may be convened. Pursuant to the Uniform Administrative Procedures Act, suspension, downgrade, revocation, or civil penalties may not be ordered after an informal conference unless agreed to by the Respondent. All Respondents attending an informal conference shall sign the attached acknowledgement of their rights in the matter prior to participating in the conference. This policy shall not prevent the Commission from directing any lesser disposition, including closure, dismissal, or letter of instruction, caution, warning or reprimand." Ms. Heuer stated this language may have come from another program policy within Commerce and Insurance and was not consistent with "informal conferences" as performed by the Real Estate Appraiser Commission. Discussion was held regarding changing the language in the Commission Policies to "settlement conference" rather than "informal conference". Mr. Pipkin made the motion to repeal Commission Policy 6. Mr. Bullington seconded the motion. The motion carried unopposed.

### **Commission Policy 18**

Ms. Urban and Ms. Heuer presented the Commission with a possible new Commission Policy regarding the previously discussed "informal conferences" which hereafter shall be referred to as "settlement conferences". The substance of this policy was recommended to read, "In cases where a respondent is scheduled for a settlement conference, legal counsel to the Commission is authorized to conduct the settlement conference in reference to all complaints that have been filed against that respondent, regardless of whether all of the complaints have yet been presented to the Commission." Mr. Flowers made the motion to adopt this policy. Mr. Pipkin seconded that motion. The motion carried unanimously.

### **EXPERIENCE INTERVIEWS**

**Roy H. Truan, III** attended the Commission meeting to conduct the 500 hour experience audit with a Commission member. Mr. Headden stated his appraisals looked good.

**Daniel L. Santucci**, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Headden was the reviewer and recommended approval. Mr. Flowers made the motion to accept the recommendation and Mr. Pipkin seconded the motion. The motion carried unopposed.

**Leaha L. Cofer**, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Headden was the reviewer and recommended approval. Mr. Flowers made the

motion to accept the recommendation and Mr. Pipkin seconded the motion. The motion carried unopposed.

**Christina M. Wiley**, made application to upgrade from registered trainee to certified residential appraiser. Mr. Headden was the reviewer and recommended approval subject to completion of 30 hours of Reporting Writing course(s). Mr. Pipkin made the motion to accept this recommendation; Mr. Flowers seconded the motion. The motion carried unopposed.

**Cory Hill**, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Bullington was the reviewer and recommended approval. Mr. Bratton made the motion for approval; Mr. seconded the motion. The motion carried unopposed.

**Jacob Turner**, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Bullington was the reviewer and recommended approval. Dr. Evans made the motion for approval; Mr. Pipkin seconded the motion. The motion carried unopposed.

**Carlton B. Osborne**, made application to upgrade from a registered trainee to a licensed appraiser. Mr. Bullington was the reviewer and recommended approval. Dr. Evans made the motion for approval; Mr. Pipkin seconded the motion. The motion carried unopposed.

**Jennifer Masters**, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Bullington was the reviewer and recommended approval. Dr. Evans made the motion for approval; Mr. Pipkin seconded the motion. The motion carried unopposed.

**Jayne Burns**, made application to upgrade from a licensed appraiser to a certified residential appraiser. Mr. Flowers was the reviewer and recommended approval; however, it was recommended to the applicant that he take an appraisal methodology course. Mr. Bullington made the motion to accept the recommendation and Mr. Pipkin seconded the motion. The motion carried unopposed.

**Fred Baker IV**, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Flowers was the reviewer and recommended approval; however, it was recommended to the applicant that he take an appraisal methodology course. Mr. Bullington made the motion to accept the recommendation and Mr. Pipkin seconded the motion. The motion carried unopposed.

**William P. Chatham**, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Wade was the reviewer and recommended approval. Mr. Flowers made the motion to accept the recommendation and Mr. Pipkin seconded the motion. The motion carried unopposed.

**Jeffrey H. White**, made application to upgrade from a registered trainee to a licensed appraiser. Mr. Wade was the reviewer and recommended approval. Mr. Flowers made the motion to accept the recommendation and Mr. Pipkin seconded the motion. The motion carried unopposed.

**Sean Kennedy**, made application to upgrade from a registered trainee to a certified general appraiser. Mr. Wade and Mr. Flowers were the reviewers and recommended that Mr. Kennedy

submit additional information on one of the appraisal reports as discussed during the experience interview. The reviewers stated that they would review the amended appraisal and make a recommendation at a future Commission meeting regarding the request for upgrade. They stated that Mr. Kennedy was not required to attend an additional experience interview at this time.

## LEGAL REPORT

The following consent orders were presented to the Commission for consideration of approval.

**Rebecca Snyder** – signed Consent Order agreeing that she violated Rule 1255-1-.13(4)(g) by conducting a property inspection alone (without being accompanied by the supervising appraiser) prior to gaining 500 hours of acceptable appraisal experience and turning in the property inspection affidavit. Respondent has agreed to take a fifteen (15) hour **USPAP course** and a thirty (30) hour **Report Writing course** within three months.

**Timothy Towner** – signed Consent Order agreeing that he violated Uniform Standards of Professional Appraisal Practice Rule 1-4, 2-1, 2-2, the Ethics Rule; Conduct, Management and Record Keeping sections in the following ways:

- Conduct section (Ethics) -- by communicating a report with a misleading value opinion supported by using Comparables that were of superior quality and superior locations;
- Management section (Ethics) -- by favoring the cause of the client and borrower by providing an appraised value directed to favor the cause of the client and accepting an assignment with compensation that was contingent on an unethical assignment condition;
- Record Keeping section (Ethics) -- by failing to retain a true copy of the written report that he issued to the client;
- Standard Rule 1-4 -- by including inappropriate Comparables in the sales comparison approach and using inappropriate adjustments to the elements of comparison;
- Standard Rule 2-1 -- by altering the report and using Comparables that were of superior quality, condition and location without making adjustments or reporting on these elements; and
- Standard Rule 2-2 (b)(ix) by not adequately reconciling the data and reasoning used in the report to develop the opinions of value.

Respondent has agreed to a **civil penalty of \$2,000** and a suspension of this license to begin on the date that this consent order is fully executed. At the end of the **eight month suspension** the Respondent's license will be reinstated without further action necessary by the Respondent (however, all licensure fees and continuing education requirements shall still apply during the suspension period).

**Michael Douglas Webb** - signed Consent Order admitting he violated the Ethics Rule, Conduct Section by failing to provide trainee with access to work files and failing to identify person who provided significant appraisal assistance in the development of the appraisal assignment; Respondent agreed to a **\$3,000 civil penalty** and to complete a 16 hour **USPAP course** within 90 days of execution of signing this consent order.

**Burchette McFarland** - signed Consent Order admitting to unlicensed appraisal work. The respondent performed an appraisal on or about May 19, 2003 subsequent to his license expiring on April 30, 2003. Respondent states in the consent order that he understands his civil penalty has been especially waived by the Commission due to his inability to pay said penalty and that he understands that if he should engage in any other unlicensed appraiser actions, the Commission has the **authority in this case to re-open** this case and, in addition, bring charges on the new case, and will also refer both cases to the local district attorney for misdemeanor prosecution for unlicensed conduct. The Respondent further agrees to **cease and desist** his activities of preparing appraisals and/or soliciting appraisal assignments without a valid license.

**Vote:** Mr. Pipkin made the motion to approve the presented consent orders. Mr. Flowers seconded that motion. The motion carried unopposed.

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**1. L07-APP-RBS-2007050561 Mr. Bratton was the reviewer.**

The complainant, HUD, alleged that respondent failed to describe property characteristics, that the appraisal report contained numerous errors including the adjustments made in the Sales Comparison Approach, and also that the respondent failed to analyze the sales history.

Respondent states that the comparables used were extremely proximate to the subject and similar in age to the subject. The respondent admitted that the adjustment for size to Comparable two was made in error, but that this error would not have affected the value opinion. The respondent also admitted misreporting the closing date of one of the comparables. Regarding a second property appraised, the respondent stated that the sales prices were confirmed through the MLS and the listing broker, and that though courthouse retrieval had a sale price difference of \$190.00, this would not have affected the value opinion in this appraisal. The respondent stated one comp did not have a porch at the time of sale and that this feature was added after the sale, and was not, therefore, adjusted in the sales grid. The respondent admitted he did make an error in an adjustment for financing, but stated it would not have altered the value opinion.

*Prior complaints: 941783 Closed; 199900653 Closed with a Letter of Warning.*

**Recommendation and reasoning:** Recommendation of a Letter of Warning for lack explanation of adjustments included in appraisal report and failure to review appraisal for errors prior to communication of appraisal report, as per Mr. Bratton.

**Vote:** Mr. Flowers made the motion to approve the recommendation. Mr. Pipkin seconded that motion. The motion carried unopposed.

**2. L07-APP-RBS-2007050631 Mr. Headden was the reviewer.**

The complaint alleged Respondent used superior comps and committed USPAP violations. The Respondent stated that the comps used in his appraisals were more similar than those used by the Complainant in the appraisal review. The Respondent submitted public record data to verify his source for information on property characteristics such as central air conditioning and condition of the properties.

*No prior complaint history.*



**Recommendation and reasoning:** Mr. Headden stated there was evidence of possible USPAP violations and he recommended a settlement conference to discuss the complaint and appraisal further with the Respondent.

**Vote:** Dr. Evans made the motion to approve the recommendation. Mr. Flowers seconded that motion. The motion carried unopposed.

**3. L07-APP-RBS-2007053231 Mr. Headden was the reviewer.**

The Complainant (a review appraiser) alleged Respondent created a misleading appraisal report and over-valued the subject property. Complainant alleges respondent did not analyze the purchase agreement. The Complainant alleges the following Incorrect Data: that the Respondent misreported the site size and subject size, included a building sketch that was not of the subject home, and failed to include the two car attached garage; that in one part of the appraisal the Respondent reported that the subject had a basement and in another reported the subject had a crawlspace (complainant reports the subject is on a concrete slab); that the Respondent stated the exterior was brick and siding (complainant reports the subject is all brick); that Respondent reported the subject to have a deck, (complainant reports the subject has a patio); and that the Respondent over-stated the size of the subject.

The Complainant alleges inappropriate comparables were used: because comparables were ranch homes with basements, which were outside of the subject neighborhood. The Complainant reports the subject is located in a "tract" neighborhood and there were two similar sales on the same street, one next door and another across the street. Complainant reports the Respondent used sales that were higher in sale price than any in the subject neighborhood and also alleged the Respondent used adjustments that were excessively small for the basement (\$6/sq ft) and GLA (\$20/sq ft) for a new construction brick ranch. The Complainant reported that the Respondent failed to report the prior foreclosure sale of comparable 2 which was within one year of the last sale.

The Respondent states he was provided an original sketch of the subject, which was new, but existing, at the time of the appraisal report. Respondent does not state if he measured the subject property. He states that comparable sales were chosen from competing subdivisions due to lack of sales similar to the subject within the same subdivision, i.e. all brick with an upgraded interior. Respondent states that the cost was obtained by actual contractor cost at the time and that the income data was obtained from a local rental property manager. Respondent admitted that the adjustments appeared low and that he failed to double check the size and sketch included in the report. He stated that personal matters at the time of the appraisal (recently losing his mother to Alzheimer's and caring for an ill grandmother) may have contributed to this negligence.

*No prior complaint history.*

**Recommendation and reasoning:** Mr. Headden stated that there were errors found in the appraisal report and corresponding USPAP violations for errors and omissions and, additionally, this can create a misleading appraisal report by the Ethics Rule. He recommended a consent order with a required fifteen (15) hour USPAP and thirty (30) hours of Report Writing course(s) be sent to the Respondent. Also, the recommendation included approval for formal hearing, if needed.

**Vote:** Mr. Pipkin made the motion to approve the recommendation. Mr. Wade seconded that motion. The motion carried unopposed.

**4. L07-APP-RBS-2007055791 Mr. Headden was the reviewer.**

The Complainant, a CR, alleged the Respondent misreported the census tract information, the legal description, the price range and ages of houses in the neighborhood, the topography, and did not report the exposure time estimate. Complainant alleges the Respondent did not include sales in the grid (left it blank) on the land appraisal report and did not reconcile the value conclusion. He states that not all of the comparables referenced on the addendum page were of similar in topography and stated that some of the comparables had improvements on the sites. The Complainant stated that no adjustments were made to these comparables and no explanation of how the value opinion was arrived at was included. He also stated that the scope of work was not reported in the appraisal and the contribution (or lack of contribution) of the subject barn, sheds and old house was not reported in the appraisal. Complainant alleges that statements of fact in the certification are contradictory to what was included in the appraisal report and does not appear consistent with the appraisal performed (land appraisal report).

Staff reports that the Respondent was sent three letters requesting response to this complaint, including a fax on April 12, which the Respondent returned a fax stating he has received this complaint. Staff mailed and faxed the complaint again on April 26, 2007 and the response was received for this complaint on 5/14/2007.

Respondent states this complaint was filed by the complainant to eliminate competition. Respondent states the census tract number was correct, the legal description and county court records were the same, and that the range of values for the market area was a generalization. In addition, respondent stated the client had told him that no discussion was needed in the report pertaining to listing history because this client had advance knowledge of these conditions. Respondent stated the topography reported was correct. He stated that the sales grid was left blank, but this is not a USPAP requirement. Respondent stated he placed nine sales on the addendum and there were no quantitative adjustments needed in this qualitative analysis. He stated the structures or dwellings on these properties were minor with little value. Finally, he stated that, "a final value of all things considered was my reasoning. I might not have described in actual words my reasoning for my value per acre of the subject but the simple application of some common sense and reasoning from a client or colleague that I thought to be in the appraisal business and not just the public was considered." Respondent stated he discussed the scope of work with his client who was an appraiser trainee for his competition at the time of the assignment. He also stated this client went ahead and used this appraisal to close this sale and is now trying to use it to get an equity loan.

*Prior complaint history; 937651 (Letter of Warning); 941879 (Closed); 200207259 (Dismissed).*

**Recommendation and reasoning:** Mr. Headden stated that although some minor technical issues were found, no major USPAP violations were evident and he recommended dismissal of this complaint.

**Vote:** Mr. Pipkin made the motion to approve the recommendation. Mr. Wade seconded that motion. The motion carried unopposed.

**5. L07-APP-RBS-2007055851 Mr. Headden was the reviewer.**

This complaint was filed by Fannie Mae, in response to a retrospective review done in February 2007 on an appraisal with an effective date of December, 2002. The review appraiser, complainant, alleged that the Respondent used broad neighborhood boundaries and significantly misreported the size of the subject property. Complainant also alleged that the Respondent misreported the age of comparable one and failed to include the basement and fireplace of this comparable, misreported the size of comparable two and did not report its garage and that this property was located on waterfront, and misreported the size of comparable three and did not report the fact this property is a log home on over 18 acres of land but reported it as an average 1 story home on 2 acres of land. The review concluded that these misleading details led to a significant over-valuation of the subject property.

Respondent stated that the appraisal submitted by complainant is not the final appraisal given to the client, and that there had been some errors that were corrected and submitted to the client subsequent to this appraisal. Respondent admits his error in mistakenly including comparables four and five from a previous appraisal that he had cloned ( he forgot to delete those comps from the appraisal). Respondent stated the data source used in 2002 is no longer available and that the reviewer used new record cards that may have changed since the original effective date. The Respondent stated that some errors were made in typing which they make every attempt to catch and that their office appraisers view every comparable to compare them to tax records as to the accuracy of both.

*Prior complaint history; 200313968 (Dismissed); 200417818 (Letter of Warning); 200503352 (Letter of Warning).*

**Recommendation and reasoning:** Mr. Headden stated that the Respondent seems to have measured the subject inaccurately and misreported some of the property characteristics which would be USPAP violations for errors and omissions and, additionally, this can create a misleading appraisal report by the Ethics Rule. He recommended a consent order with a required fifteen (15) hour USPAP and thirty (30) hours of Report Writing course(s) be sent to the Respondent. Also, the recommendation included approval for formal hearing and settlement conference, if needed.

**Vote:** Mr. Wade made the motion to approve the recommendation. Mr. Pipkin seconded that motion. The motion carried unopposed.

**6. L07-APP-RBS-2007057091 Mr. Headden was the reviewer.**

Complainant (an appraiser) alleged Respondent performed an appraisal assignment without being licensed by the State of Tennessee by rendering an opinion of the market value of a property in an evaluation. Staff reviewed this information which appeared to be an e-mail evaluation sent by a Realtor. The text of the message read that this was a "market analysis" and "the market analysis below is not an opinion of value or appraisal" and "this is not an appraisal"; however, the conclusion in the evaluation read "my estimate of your home's current market value is: low of \$225, to a high of \$275,000".

T.C.A. §62-39-102 defines an appraisal as: "Appraisal" means a written or oral statement independently and impartially prepared by a state-licensed or state-
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certified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information prepared in conformity with the uniform standards of professional appraisal practice.

T.C.A. §62-39-103 reads: Except as provided in § [62-39-104](#), after December 31, 1991, it is unlawful for anyone to solicit an appraisal assignment, or prepare an appraisal or an appraisal report relating to real estate or real property in this state, without first obtaining a real estate appraiser's license or certificate.

**T.C.A. §62-39-104 reads: This chapter does not apply to a real estate broker or salesperson licensed by this state who, in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate. This opinion as to the listing price or the purchase price shall not be referred to as an appraisal and no opinion shall be rendered as to the value of the real estate or real property.** Further, This chapter does not apply to any evaluation of the value of real estate serving as collateral for a loan made by a federally regulated financial institution or to any evaluation of the value of the assets of a trust held by such institution; provided, that: (a) The applicable federal regulator does not require an appraisal by a state-licensed or state-certified appraiser for such loan or trust; (b) The evaluation is used solely by the financial institutions in their records to document the collateral or asset value; (c) The evaluation shall be labeled on its face "this is not an appraisal"; and (d) Individuals performing these evaluations may be compensated for their services.

The Respondent stated that she has been a real estate broker for over 15 years and that she began using the internet services for issuing Comparative Market Analyses (CMA's) to increase business referrals. She states that it clearly states on this CMA that this is not an appraisal.

*No prior complaint history.*

**Recommendation and reasoning:** This did not appear to be an attempt to mislead on the part of the Respondent in this evaluation; however, it is the staff recommendation that a Letter of Warning be issued regarding the use of the term "market value" in rendering a market analysis for a potential client.

**Vote:** Mr. Pipkin made the motion to approve the recommendation. Mr. Flowers seconded that motion. The motion carried unopposed.

**7. L06-APP-RBS-2006036051 Mr. Headden was the reviewer. Re-present.**

Respondent has a reciprocating license from Alabama. Alabama had issued an administrative fine of \$725 and a three month suspension and the respondent was on probationary status for 18 months. The fine was not initially paid by the Respondent, but has since been resolved and Respondent's license has since been reinstated in Alabama.

Respondent's Alabama Consent Order, which was finalized, referenced an appraisal of an environmentally contaminated property located in Alabama. The AL commission found that

respondent had not submitted to the lender an addendum which addressed this issue, but when the complaint regarding this appraisal was opened, the Respondent *added* the addendum regarding environmental contamination. The Respondent was found by the AL commission to have failed to report and/or analyze the impact of environmental contamination on the subject's value and marketability. The Respondent was also found to have used sales in the sales comparison analysis that were outside the area identified as suspected of environmental contamination and did not report that the market area for the comparables was not in close proximity to the area suspected or known to be contaminated. The commission stated in the consent order that the area was widely known to be contaminated through television ads, newspaper articles and EPA publications.

Our staff reports that the Respondent did not notify the Tennessee Real Estate Appraiser Commission of his address change and staff has been trying to locate him since the complaint was filed in September of 2006. The Respondent has recently been located, though he still has not submitted the change of information form. He stated in his e-mail to staff that, "I just got back to Alabama and got the letter...the Alabama Board did not call or mail me saying they did not receive the contested fine for an appraisal in 2002. They mailed me a letter saying I was suspended and I sent the money that day, hand delivered, so I was suspended for that day. The Alabama Appraisal Board is totally unfair to appraisers. I will send a letter of explanation. I am currently pursuing legal action against the Board for extreme prejudice." *Prior complaint history: none.*

This complaint was presented during the April, 2007 meeting and Mr. Bratton made the motion to proceed to formal hearing with this complaint due to failure of the Respondent to respond to the complaint within seven months. Mr. Bullington seconded that motion, which was carried unopposed. The Respondent has sent in a response, in which he referred to one of the two appraisals that the complaint in Alabama referenced as over-valued. Respondent stated that the property has been remodeled. He stated that the review of his appraisal was fraudulent and bogus and that the Board did not investigate the field review of this appraisal. The Respondent stated he believed the suspension would be stayed because the order was from a particular mortgage company. He further stated that he was sued because he had put on his website that this mortgage company was not an honorable organization. The judge awarded in favor of the plaintiff mortgage company. The Respondent also stated that the Alabama Board is under investigation.

**Recommendation and reasoning:** Mr. Headden recommended a consent order be sent to the Respondent as an offer for settlement which should include a \$2,000 civil penalty and a 6 month suspension due to failure to notify the Commission of suspension in Alabama and failure to respond to the complaint and Commission request in a timely manner due to failure to change address when the Respondent moved. Formal hearing had been approved at a previous Commission meeting.

**Vote:** Mr. Flowers made the motion to approve the recommendation. Mr. Wade seconded that motion. The motion carried unopposed.

**8. L07-APP-RBS-2007055831 Mr. Wade was the reviewer.**

This consumer complaint alleges the respondent under-valued his residence. The Complainant stated he had an appraisal done in April of 2006, which reported a value opinion of \$130,000. In October of 2006, he refinanced his home and this appraisal reported a value opinion of \$95,000.

Respondent states that he reviewed the appraisal and stands by his value opinion. Respondent stated that the comparables used "encompassed as many similar features as possible," and, "there are not a large number of split level homes in the defined neighborhood boundaries." He stated that the area has been going through a gentrification<sup>1</sup> process and there is new construction in the area and that the subject was an average residence with no central heat and air. Staff review of the appraisal report found no significant errors. *No prior complaint history.*

**Recommendation and reasoning:** A recommendation of dismissal, as per Mr. Wade, because there were no significant errors found during review of this complaint.

**Vote:** Mr. Bullington made the motion to approve the recommendation. Mr. Pipkin seconded that motion. The motion carried unopposed.

**9. L07-APP-RBS-2007055841 Mr. Wade was the reviewer.**

This consumer complaint alleges the respondent over-valued his residence in 2005. The Respondent has been sent three letters requesting response to this complaint, including faxes on April 12 and April 26, 2007. At this time, no response has been submitted to this complaint. *Prior complaint history: 200006595 (Final Order \$10,750, educational courses, downgraded to LI); 200100966 (combined with previous); 200100972 (Consent Order); 200101487 (Closed); 200104342 (Closed); 200207456 (Dismissed); 200207645 (Dismissed); 200418534 (Closed); 200500418 (Dismissed); 200500788 (combined with Final Order previously noted); 200600153 (Dismissed); 200600367 (Closed).*

**Recommendation and reasoning:** The complaint of the property owner is that the appraiser inflated the value of their property on 03/03/2005, when they refinanced. A complete copy of the appraisal is not available at this time, but it is apparent to staff (from the available information) that improprieties exist in the selection of comparable sales and the inappropriate use of \$20 per square foot value used to adjust the gross living area differences. Also, the appraiser is not responding to the administrator's request for a response. The appraiser has had numerous complaints filed against him. The recommendation of Mr. Wade was to approve an informal conference and formal hearing. Additionally, a consent order was recommended to be sent to the Respondent as an offer to settle this complaint which would include the option of a voluntary surrender.

**Vote:** Mr. Flowers made the motion to approve the recommendation. Mr. Pipkin seconded that motion. The motion carried unopposed.

**10. L07-APP-RBS-2007058271 Mr. Wade was the reviewer.**

This complaint was filed by an outside agency who alleged the respondent completed an appraisal for them in December of 2006 on a duplex property and sent back to them two separate single family home appraisals using condominium comparables on the single unit appraisal form. The complainant stated the Respondent's reasoning to them was there were no duplex or two-family comparables he could use. The Complainant stated that the Respondent told them he "would

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<sup>1</sup> the buying and renovation of houses and stores in deteriorated urban neighborhoods by upper- or middle-income families or individuals, thus improving property values but often displacing low-income families and small businesses.

simply add the two values together to obtain our value." The loan officer stated he told the Respondent that was not acceptable. The Complainant stated they then hired another appraiser to appraise the property who subsequently provided them with a two-family appraisal using two-family comparables. The Complainant reported that the Respondent sent in another appraisal on the subject property as a two-family property, but still used single family comparables. The Complainant alleged the Respondent has illustrated a lack of competency in performing this appraisal assignment.

The Respondent stated he was requested to appraise the subject as "one living quarters" even though "the subject was built as a duplex; everything about it screamed DUPLEX". He stated that he told the loan officer that the property was a duplex but was told to appraise it as a single unit. The Respondent stated, "I attempted to do as was requested and worked out a very unusual appraisal on a single family form. It was not easy. You probably have this appraisal in hand. I do not." The Respondent further stated that he was contacted by the loan officer's superior who was angry about the invoice for the prior appraisal and proceeded to instruct the Respondent to appraise the property as a "double condo appraisal," and respondent agreed to try. Respondent states he contacted the loan officer after delivery of the appraisal and was told it was received but had not been placed yet. The Respondent stated he was never told the appraisal would not work, that another appraiser had been contacted, that the appraisal was returned unusable, and that he would not be paid.

*Prior complaint history; 200317098 (Consent Order, Civil Penalty); 200704797 (Open).*

**Recommendation and reasoning:** Recommendation to combine this complaint with # 2007047971 (open) for informal conference and for the consent order issued previously (which required a 15 hour USPAP course, a report writing course, and a \$5,000.00 civil penalty) to be amended as deemed necessary by Mr. Wade. In addition, a recommendation for authorization for formal hearing, if needed.

**Vote:** Mr. Pipkin made the motion to approve the recommendation. Mr. Flowers seconded that motion. The motion carried unopposed.

Being no further business, Mr. Pipkin recommended adjourning meeting and this motion was seconded by Mr. Bullington. The motion carried unanimously and the meeting was adjourned at 1:20 p.m.

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Nikole Urban, Administrative Director

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Marc Headden, Chairman